

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:

UNITED STATES OF AMERICA

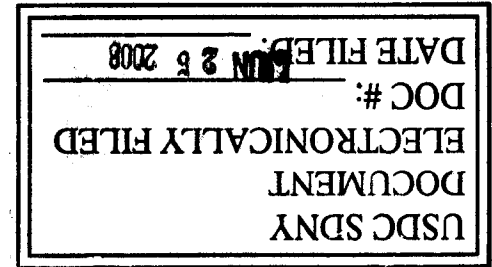
- v. - : SUPERSEDING INDICTMENT

: S1 08 Cr. 351 (GEL)

JOSE ALEJANDRO FRANCO,
JOHANN PINEDA,
JOSE LUIS CERRATO-GOMEZ,
PEDRO FELIPE, and
LUIS OSCAR REYES DILONE,
a/k/a "Eliud Lopez-Rivera,"
a/k/a "Danny Rivera,"

Defendants.

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COUNT ONE

The Grand Jury charges:

1. In or about April 2008, in the Southern District of New York and elsewhere, JOSE ALEJANDRO FRANCO, JOHANN PINEDA, JOSE LUIS CERRATO-GOMEZ, PEDRO FELIPE, and LUIS OSCAR REYES DILONE, a/k/a "Eliud Lopez-Rivera," a/k/a "Danny Rivera," the defendants, and others known and unknown, unlawfully, intentionally and knowingly, did combine, conspire, confederate and agree together and with each other to violate the controlled substances laws of the United States.

2. It was a part and object of the conspiracy that JOSE ALEJANDRO FRANCO, JOHANN PINEDA, JOSE LUIS CERRATO-GOMEZ, PEDRO FELIPE, and LUIS OSCAR REYES DILONE, a/k/a "Eliud Lopez-Rivera," a/k/a "Danny Rivera," the defendants, and others known and unknown, unlawfully, intentionally, and knowingly, would and did distribute and possess with intent to distribute a controlled substance, to

wit, 5 kilograms and more of mixture and substances containing a detectable amount of cocaine, in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A).

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal objects thereof, JOSE ALEJANDRO FRANCO, JOHANN PINEDA, JOSE LUIS CERRATO-GOMEZ, PEDRO FELIPE, and LUIS OSCAR REYES DILONE, a/k/a "Eliud Lopez-Rivera," a/k/a "Danny Rivera," the defendants, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about April 7, 2008, JOSE ALEJANDRO FRANCO, JOHANN PINEDA, and JOSE LUIS CERRATO-GOMEZ, traveled to the vicinity of 101st Street and Broadway in New York, New York.

b. On or about April 7, 2008, JOSE ALEJANDRO FRANCO and PEDRO FELIPE traveled to the vicinity of the K-Mart located on Bruckner Boulevard in Bronx, New York.

c. On or about April 7, 2008, LUIS OSCAR REYES DILONE, a/k/a "Eliud Lopez-Rivera," a/k/a "Danny Rivera," rented the basement apartment at 52-107 79th Street in Elmhurst, New York.

(Title 21, United States Code, Section 846)

Forfeiture Allegation

4. As a result of committing the controlled substances offense alleged in Count One of this Indictment, JOSE ALEJANDRO FRANCO, JOHANN PINEDA, JOSE LUIS CERRATO-GOMEZ, PEDRO FELIPE, and

LUIS OSCAR REYES DILONE, a/k/a "Eliud Lopez-Rivera," a/k/a "Danny Rivera," the defendants, shall forfeit to the United States, pursuant to 21 U.S.C. Section 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said controlled substances violation and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the controlled substances violation alleged in Count One of this Indictment.

Substitute Asset Provision


a. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with, a third person;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to 21 U.S.C. Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1), 846 and 853.)



FOREPERSON

MICHAEL J. GARCIA
United States Attorney

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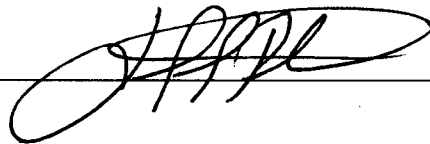
INDICTMENT

S1 08 Cr. 351 (GEL)

(21 U.S.C. §§ 812, 841(a)(1), 841(b)(1)(A), & 846)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL



Foreperson.

Filed ~~2/2~~ superceding indictment. Case previously
assigned to Judge Lynch.

SRM
6/26/08

- Maas, J.